

SECOND REGULAR SESSION

SENATE BILL NO. 563

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR LOUDON.

Pre-filed December 1, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

3091S.071

AN ACT

To repeal sections 211.011, 211.071, 217.735, 556.061, 559.106, 566.010, 566.030, 566.032, 566.060, 566.062, 566.067, 566.068, 566.083, 566.090, 566.151, 566.212, 568.080, 568.090, 573.010, 589.400, 589.407, 589.414, and 589.425, RSMo, and to enact in lieu thereof thirty new sections relating to crime, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 211.011, 211.071, 217.735, 556.061, 559.106, 566.010, 566.030, 566.032, 566.060, 566.062, 566.067, 566.068, 566.083, 566.090, 566.151, 566.212, 568.080, 568.090, 573.010, 589.400, 589.407, 589.414, and 589.425, RSMo, are repealed and thirty new sections enacted in lieu thereof, to be known as sections 43.533, 188.023, 211.011, 211.071, 217.735, 489.042, 556.061, 559.106, 566.010, 566.030, 566.032, 566.060, 566.062, 566.066, 566.067, 566.068, 566.069, 566.083, 566.090, 566.151, 566.212, 568.080, 568.090, 573.010, 589.400, 589.407, 589.408, 589.414, 589.418, and 589.425 to read as follows:

43.533. 1. The highway patrol shall, subject to appropriation, operate a toll-free telephone number in order to disseminate registration information provided by individuals who are required to register under sections 589.400 to 589.425, RSMo. The information available via the telephone number shall include only information that offenders are required to provide under section 589.407, RSMo. When the highway patrol provides such information regarding a sexual offender, the patrol personnel shall advise the person making the inquiry that positive identification of a person believed to be a sexual offender cannot be established unless a fingerprint comparison is made,

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

11 **and that it is illegal to use such information regarding a registered**
12 **sexual offender to facilitate the commission of a crime.**

13 **2. The patrol shall promulgate rules to effect the enforcement of**
14 **this section. Any rule or portion of a rule, as that term is defined in**
15 **section 536.010, RSMo, that is created under the authority delegated in**
16 **this section shall become effective only if it complies with and is**
17 **subject to all of the provisions of chapter 536, RSMo, and, if applicable,**
18 **section 536.028, RSMo. This section and chapter 536, RSMo, are**
19 **nonseverable and if any of the powers vested with the general assembly**
20 **pursuant to chapter 536, RSMo, to review, to delay the effective date,**
21 **or to disapprove and annul a rule are subsequently held**
22 **unconstitutional, then the grant of rulemaking authority and any rule**
23 **proposed or adopted after August 28, 2006, shall be invalid and void.**

188.023. Any abortion clinic personnel who has prima facie
2 **evidence that a client has been the victim of statutory rape is required**
3 **to report such crime in the same manner as provided by section**
4 **210.115, RSMo.**

211.011. The purpose of this chapter is to facilitate the care, protection
2 and discipline of children who come within the jurisdiction of the juvenile court
3 **while promoting and supporting practices, policies, and programs that**
4 **focus on repairing the harm of crime, increasing the safety of the**
5 **citizens of the state, emphasizing accountability, and providing**
6 **alternatives to incarceration for offenders who are at low risk of**
7 **violence.** This chapter shall be liberally construed, therefore, to the end that
8 each child coming within the jurisdiction of the juvenile court shall receive such
9 care, guidance and control as will conduce to the child's welfare and the best
10 interests of the state, and that when such child is removed from the control of his
11 parents the court shall secure for him care as nearly as possible equivalent to
12 that which should have been given him by them. The child welfare policy of this
13 state is what is in the best interests of the child.

211.071. 1. If a petition alleges that a child between the ages of twelve
2 and seventeen has committed an offense which would be considered a felony if
3 committed by an adult, the court may, upon its own motion or upon motion by the
4 juvenile officer, the child or the child's custodian, order a hearing and may, in its
5 discretion, dismiss the petition and such child may be transferred to the court of
6 general jurisdiction and prosecuted under the general law; except that if a

7 petition alleges that any child has committed an offense which would be
8 considered first degree murder under section 565.020, RSMo, second degree
9 murder under section 565.021, RSMo, first degree assault under section 565.050,
10 RSMo, forcible rape under section 566.030, RSMo, forcible sodomy under section
11 566.060, RSMo, first degree robbery under section 569.020, RSMo, or distribution
12 of drugs under section 195.211, RSMo, or has committed two or more prior
13 unrelated offenses which would be felonies if committed by an adult, the court
14 shall order a hearing, and may in its discretion, dismiss the petition and transfer
15 the child to a court of general jurisdiction for prosecution under the general
16 law. **There shall be a rebuttable presumption that the child shall be**
17 **transferred to a court of general jurisdiction for prosecution under the**
18 **general law in any instance where a court is required to order a**
19 **hearing under this subsection.**

20 2. Upon apprehension and arrest, jurisdiction over the criminal offense
21 allegedly committed by any person between seventeen and twenty-one years of
22 age over whom the juvenile court has retained continuing jurisdiction shall
23 automatically terminate and that offense shall be dealt with in the court of
24 general jurisdiction as provided in section 211.041.

25 3. Knowing and willful age misrepresentation by a juvenile subject shall
26 not affect any action or proceeding which occurs based upon the
27 misrepresentation. Any evidence obtained during the period of time in which a
28 child misrepresents his age may be used against the child and will be subject only
29 to rules of evidence applicable in adult proceedings.

30 4. Written notification of a transfer hearing shall be given to the juvenile
31 and his custodian in the same manner as provided in sections 211.101 and
32 211.111. Notice of the hearing may be waived by the custodian. Notice shall
33 contain a statement that the purpose of the hearing is to determine whether the
34 child is a proper subject to be dealt with under the provisions of this chapter, and
35 that if the court finds that the child is not a proper subject to be dealt with under
36 the provisions of this chapter, the petition will be dismissed to allow for
37 prosecution of the child under the general law.

38 5. The juvenile officer may consult with the office of prosecuting attorney
39 concerning any offense for which the child could be certified as an adult under
40 this section. The prosecuting or circuit attorney shall have access to police
41 reports, reports of the juvenile or deputy juvenile officer, statements of witnesses
42 and all other records or reports relating to the offense alleged to have been

43 committed by the child. The prosecuting or circuit attorney shall have access to
44 the disposition records of the child when the child has been adjudicated pursuant
45 to subdivision (3) of subsection 1 of section 211.031. The prosecuting attorney
46 shall not divulge any information regarding the child and the offense until the
47 juvenile court at a judicial hearing has determined that the child is not a proper
48 subject to be dealt with under the provisions of this chapter.

49 6. A written report shall be prepared in accordance with this chapter
50 developing fully all available information relevant to the criteria which shall be
51 considered by the court in determining whether the child is a proper subject to
52 be dealt with under the provisions of this chapter and whether there are
53 reasonable prospects of rehabilitation within the juvenile justice system. These
54 criteria shall include but not be limited to:

55 (1) The seriousness of the offense alleged and whether the protection of
56 the community requires transfer to the court of general jurisdiction;

57 (2) Whether the offense alleged involved viciousness, force and violence;

58 (3) Whether the offense alleged was against persons or property with
59 greater weight being given to the offense against persons, especially if personal
60 injury resulted;

61 (4) Whether the offense alleged is a part of a repetitive pattern of offenses
62 which indicates that the child may be beyond rehabilitation under the juvenile
63 code;

64 (5) The record and history of the child, including experience with the
65 juvenile justice system, other courts, supervision, commitments to juvenile
66 institutions and other placements;

67 (6) The sophistication and maturity of the child as determined by
68 consideration of his home and environmental situation, emotional condition and
69 pattern of living;

70 (7) The age of the child;

71 (8) The program and facilities available to the juvenile court in
72 considering disposition;

73 (9) Whether or not the child can benefit from the treatment or
74 rehabilitative programs available to the juvenile court; and

75 (10) Racial disparity in certification.

76 7. If the court dismisses the petition to permit the child to be prosecuted
77 under the general law, the court shall enter a dismissal order containing:

78 (1) Findings showing that the court had jurisdiction of the cause and of

79 the parties;

80 (2) Findings showing that the child was represented by counsel;

81 (3) Findings showing that the hearing was held in the presence of the
82 child and his counsel; and

83 (4) Findings showing the reasons underlying the court's decision to
84 transfer jurisdiction.

85 8. A copy of the petition and order of the dismissal shall be sent to the
86 prosecuting attorney.

87 9. When a petition has been dismissed thereby permitting a child to be
88 prosecuted under the general law, the jurisdiction of the juvenile court over that
89 child is forever terminated, except as provided in subsection 10 of this section, for
90 an act that would be a violation of a state law or municipal ordinance.

91 10. If a petition has been dismissed thereby permitting a child to be
92 prosecuted under the general law and the child is found not guilty by a court of
93 general jurisdiction, the juvenile court shall have jurisdiction over any later
94 offense committed by that child which would be considered a misdemeanor or
95 felony if committed by an adult, subject to the certification provisions of this
96 section.

97 11. If the court does not dismiss the petition to permit the child to be
98 prosecuted under the general law, it shall set a date for the hearing upon the
99 petition as provided in section 211.171.

217.735. 1. Notwithstanding any other provision of law to the contrary,
2 the board shall supervise an offender for the duration of his or her natural life
3 when the offender has pleaded guilty to or been found guilty of an offense under
4 section 566.030, 566.032, 566.060, or 566.062, **RSMo, based on an act**
5 **committed on or after August 28, 2006, or the offender has pleaded**
6 **guilty to or has been found guilty of an offense under section 566.067,**
7 566.083, 566.100, 566.151, 566.212, 568.020, 568.080, or 568.090, RSMo, based on
8 an act committed on or after August 28, 2005, against a victim who was less than
9 fourteen years old and the offender is a prior sex offender as defined in subsection
10 2 of this section.

11 2. For the purpose of this section, a prior sex offender is a person who has
12 previously been found guilty of an offense contained in chapter 566, RSMo.

13 3. Subsection 1 of this section applies to offenders who have been granted
14 probation, and to offenders who have been released on parole, conditional release,
15 or upon serving their full sentence without early release. Supervision of an

16 offender who was released after serving his or her full sentence will be considered
17 as supervision on parole.

18 4. A mandatory condition of lifetime supervision of an offender under this
19 section is that the offender be electronically monitored. Electronic monitoring
20 shall be based on a global positioning system or other technology that identifies
21 and records the offender's location at all times.

22 5. In appropriate cases as determined by a risk assessment, the board
23 may terminate the supervision of an offender who is being supervised under this
24 section when the offender is sixty-five years of age or older.

25 6. In accordance with section 217.040, the board may adopt rules relating
26 to supervision and electronic monitoring of offenders under this section.

**489.042. The court or the board of probation and parole shall
2 have the authority to require a person who is required to register as a
3 sexual offender under sections 589.400 to 589.425, RSMo, to give his or
4 her assigned probation or parole officer access to his or her personal
5 home computer as a condition of probation or parole in order to
6 monitor and prevent such offender from obtaining and keeping child
7 pornography or from committing an offense under chapter 566,
8 RSMo. Such access shall allow the probation or parole officer to view
9 the internet use history, computer hardware, and computer software of
10 any computer, including a laptop computer, that the offender owns.**

556.061. In this code, unless the context requires a different definition,
2 the following shall apply:

3 (1) "Affirmative defense" has the meaning specified in section 556.056;

4 (2) "Burden of injecting the issue" has the meaning specified in section
5 556.051;

6 (3) "Commercial film and photographic print processor", any person who
7 develops exposed photographic film into negatives, slides or prints, or who makes
8 prints from negatives or slides, for compensation. The term commercial film and
9 photographic print processor shall include all employees of such persons but shall
10 not include a person who develops film or makes prints for a public agency;

11 (4) "Confinement":

12 (a) A person is in confinement when such person is held in a place of
13 confinement pursuant to arrest or order of a court, and remains in confinement
14 until:

15 a. A court orders the person's release; or

16 b. The person is released on bail, bond, or recognizance, personal or
17 otherwise; or

18 c. A public servant having the legal power and duty to confine the person
19 authorizes his release without guard and without condition that he return to
20 confinement;

21 (b) A person is not in confinement if:

22 a. The person is on probation or parole, temporary or otherwise; or

23 b. The person is under sentence to serve a term of confinement which is
24 not continuous, or is serving a sentence under a work-release program, and in
25 either such case is not being held in a place of confinement or is not being held
26 under guard by a person having the legal power and duty to transport the person
27 to or from a place of confinement;

28 (5) "Consent": consent or lack of consent may be expressed or
29 implied. Assent does not constitute consent if:

30 (a) It is given by a person who lacks the mental capacity to authorize the
31 conduct charged to constitute the offense and such mental incapacity is manifest
32 or known to the actor; or

33 (b) It is given by a person who by reason of youth, mental disease or
34 defect, or intoxication, is manifestly unable or known by the actor to be unable
35 to make a reasonable judgment as to the nature or harmfulness of the conduct
36 charged to constitute the offense; or

37 (c) It is induced by force, duress or deception;

38 (6) "Criminal negligence" has the meaning specified in section 562.016,
39 RSMo;

40 (7) "Custody", a person is in custody when the person has been arrested
41 but has not been delivered to a place of confinement;

42 (8) "Dangerous felony" means the felonies of arson in the first degree,
43 assault in the first degree, attempted forcible rape if physical injury results,
44 attempted forcible sodomy if physical injury results, forcible rape, forcible
45 sodomy, kidnaping, murder in the second degree, assault of a law enforcement
46 officer in the first degree, domestic assault in the first degree, elder abuse in the
47 first degree, robbery in the first degree, statutory rape in the first degree [when
48 the victim is a child less than twelve years of age at the time of the commission
49 of the act giving rise to the offense], statutory sodomy in the first degree [when
50 the victim is a child less than twelve years of age at the time of the commission
51 of the act giving rise to the offense, and] , abuse of a child pursuant to

- 52 subdivision (2) of subsection 3 of section 568.060, RSMo, **and child kidnapping**;
- 53 (9) "Dangerous instrument" means any instrument, article or substance,
54 which, under the circumstances in which it is used, is readily capable of causing
55 death or other serious physical injury;
- 56 (10) "Deadly weapon" means any firearm, loaded or unloaded, or any
57 weapon from which a shot, readily capable of producing death or serious physical
58 injury, may be discharged, or a switchblade knife, dagger, billy, blackjack or
59 metal knuckles;
- 60 (11) "Felony" has the meaning specified in section 556.016;
- 61 (12) "Forcible compulsion" means either:
62 (a) Physical force that overcomes reasonable resistance; or
63 (b) A threat, express or implied, that places a person in reasonable fear
64 of death, serious physical injury or kidnapping of such person or another person;
- 65 (13) "Incapacitated" means that physical or mental condition, temporary
66 or permanent, in which a person is unconscious, unable to appraise the nature of
67 such person's conduct, or unable to communicate unwillingness to an act. A
68 person is not incapacitated with respect to an act committed upon such person if
69 he or she became unconscious, unable to appraise the nature of such person's
70 conduct or unable to communicate unwillingness to an act, after consenting to the
71 act;
- 72 (14) "Infraction" has the meaning specified in section 556.021;
- 73 (15) "Inhabitable structure" has the meaning specified in section 569.010,
74 RSMo;
- 75 (16) "Knowingly" has the meaning specified in section 562.016, RSMo;
- 76 (17) "Law enforcement officer" means any public servant having both the
77 power and duty to make arrests for violations of the laws of this state, and
78 federal law enforcement officers authorized to carry firearms and to make arrests
79 for violations of the laws of the United States;
- 80 (18) "Misdemeanor" has the meaning specified in section 556.016;
- 81 (19) "Offense" means any felony, misdemeanor or infraction;
- 82 (20) "Physical injury" means physical pain, illness, or any impairment of
83 physical condition;
- 84 (21) "Place of confinement" means any building or facility and the grounds
85 thereof wherein a court is legally authorized to order that a person charged with
86 or convicted of a crime be held;
- 87 (22) "Possess" or "possessed" means having actual or constructive

88 possession of an object with knowledge of its presence. A person has actual
89 possession if such person has the object on his or her person or within easy reach
90 and convenient control. A person has constructive possession if such person has
91 the power and the intention at a given time to exercise dominion or control over
92 the object either directly or through another person or persons. Possession may
93 also be sole or joint. If one person alone has possession of an object, possession
94 is sole. If two or more persons share possession of an object, possession is joint;

95 (23) "Public servant" means any person employed in any way by a
96 government of this state who is compensated by the government by reason of such
97 person's employment, any person appointed to a position with any government of
98 this state, or any person elected to a position with any government of this state.
99 It includes, but is not limited to, legislators, jurors, members of the judiciary and
100 law enforcement officers. It does not include witnesses;

101 (24) "Purposely" has the meaning specified in section 562.016, RSMo;

102 (25) "Recklessly" has the meaning specified in section 562.016, RSMo;

103 (26) "Ritual" or "ceremony" means an act or series of acts performed by
104 two or more persons as part of an established or prescribed pattern of activity;

105 (27) "Serious emotional injury", an injury that creates a substantial risk
106 of temporary or permanent medical or psychological damage, manifested by
107 impairment of a behavioral, cognitive or physical condition. Serious emotional
108 injury shall be established by testimony of qualified experts upon the reasonable
109 expectation of probable harm to a reasonable degree of medical or psychological
110 certainty;

111 (28) "Serious physical injury" means physical injury that creates a
112 substantial risk of death or that causes serious disfigurement or protracted loss
113 or impairment of the function of any part of the body;

114 (29) "Sexual conduct" means acts of human masturbation; deviate sexual
115 intercourse; sexual intercourse; or physical contact with a person's clothed or
116 unclothed genitals, pubic area, buttocks, or the breast of a female in an act of
117 apparent sexual stimulation or gratification;

118 (30) "Sexual contact" means any touching of the genitals or anus of any
119 person, or the breast of any female person, or any such touching through the
120 clothing, for the purpose of arousing or gratifying sexual desire of any person;

121 (31) "Sexual performance", any performance, or part thereof, which
122 includes sexual conduct by a child who is less than seventeen years of age;

123 (32) "Voluntary act" has the meaning specified in section 562.011, RSMo.

559.106. 1. Notwithstanding any statutory provision to the contrary,
2 when a court grants probation to an offender who has pleaded guilty to or has
3 been found guilty of an offense in section 566.030, 566.032, 566.060, **or 566.062,**
4 **RSMo, based on an act committed on or after August 28, 2006, or the**
5 **offender has pleaded guilty to or has been found guilty of an offense**
6 **under section 566.067, 566.083, 566.100, 566.151, 566.212, 568.020, 568.080, or**
7 **568.090, RSMo, based on an act committed on or after August 28, 2005, against**
8 a victim who was less than fourteen years old and the offender is a prior sex
9 offender as defined in subsection 2 of this section, the court shall order that the
10 offender be supervised by the board of probation and parole for the duration of
11 his or her natural life.

12 2. For the purpose of this section, a prior sex offender is a person who has
13 previously pleaded guilty to or has been found guilty of an offense contained in
14 chapter 566, RSMo.

15 3. When probation for the duration of the offender's natural life has been
16 ordered, a mandatory condition of such probation is that the offender be
17 electronically monitored. Electronic monitoring shall be based on a global
18 positioning system or other technology that identifies and records the offender's
19 location at all times.

20 4. In appropriate cases as determined by a risk assessment, the court may
21 terminate the probation of an offender who is being supervised under this section
22 when the offender is sixty-five years of age or older.

566.010. As used in this chapter and chapter 568, RSMo, the following
2 terms mean:

3 (1) "Deviate sexual intercourse", any act involving the genitals of one
4 person and the hand, mouth, tongue, or anus of another person or a sexual act
5 involving the penetration, however slight, of the male or female sex organ or the
6 anus by a finger, instrument or object done for the purpose of arousing or
7 gratifying the sexual desire of any person **or for the purpose of terrorizing**
8 **the victim;**

9 (2) "Sexual conduct", sexual intercourse, deviate sexual intercourse or
10 sexual contact;

11 (3) "Sexual contact", any touching of another person with the genitals or
12 any touching of the genitals or anus of another person, or the breast of a female
13 person, or such touching through the clothing, for the purpose of arousing or
14 gratifying sexual desire of any person;

15 (4) "Sexual intercourse", any penetration, however slight, of the female sex
16 organ by the male sex organ, whether or not an emission results.

566.030. 1. A person commits the crime of forcible rape if such person has
2 sexual intercourse with another person by the use of forcible
3 compulsion. Forcible compulsion includes the use of a substance administered
4 without a victim's knowledge or consent which renders the victim physically or
5 mentally impaired so as to be incapable of making an informed consent to sexual
6 intercourse.

7 2. Forcible rape or an attempt to commit forcible rape is a felony for which
8 the authorized term of imprisonment is life imprisonment or a term of years not
9 less than five years, unless:

10 (1) In the course thereof the actor inflicts serious physical injury or
11 displays a deadly weapon or dangerous instrument in a threatening manner or
12 subjects the victim to sexual intercourse or deviate sexual intercourse with more
13 than one person, in which case the authorized term of imprisonment is life
14 imprisonment or a term of years not less than ten years; **or**

15 (2) **The victim is a child less than twelve years of age, in which**
16 **case the authorized term of imprisonment is life imprisonment with**
17 **eligibility for parole after twenty-five years.**

18 3. **No person convicted of or pleading guilty to forcible rape or**
19 **an attempt to commit forcible rape shall be granted a suspended**
20 **imposition of sentence or suspended execution of sentence.**

566.032. 1. A person commits the crime of statutory rape in the first
2 degree if he has sexual intercourse with another person who is less than fourteen
3 years old.

4 2. Statutory rape in the first degree is a felony for which the authorized
5 term of imprisonment is life imprisonment or a term of years not less than five
6 years, unless:

7 (1) In the course thereof the actor inflicts serious physical injury on any
8 person, displays a deadly weapon or dangerous instrument in a threatening
9 manner, subjects the victim to sexual intercourse or deviate sexual intercourse
10 with more than one person, **in which case the authorized term of**
11 **imprisonment is life imprisonment or a term of not less than ten years;**
12 **or**

13 (2) The victim is less than twelve years of age, in which case the
14 authorized term of imprisonment is life imprisonment [or a term of years not less

15 than ten years] **with eligibility for parole after twenty-five years.**

16 **3. No person convicted of or pleading guilty to statutory rape in**
17 **the first degree shall be granted a suspended imposition of sentence or**
18 **suspended execution of sentence.**

566.060. 1. A person commits the crime of forcible sodomy if such person
2 has deviate sexual intercourse with another person by the use of forcible
3 compulsion. Forcible compulsion includes the use of a substance administered
4 without a victim's knowledge or consent which renders the victim physically or
5 mentally impaired so as to be incapable of making an informed consent to sexual
6 intercourse.

7 2. Forcible sodomy or an attempt to commit forcible sodomy is a felony for
8 which the authorized term of imprisonment is life imprisonment or a term of
9 years not less than five years, unless:

10 (1) In the course thereof the actor inflicts serious physical injury or
11 displays a deadly weapon or dangerous instrument in a threatening manner or
12 subjects the victim to sexual intercourse or deviate sexual intercourse with more
13 than one person, in which case the authorized term of imprisonment is life
14 imprisonment or a term of years not less than ten years, **or**

15 (2) **The victim is less than twelve years of age, in which case the**
16 **authorized term of imprisonment is life imprisonment with eligibility**
17 **for parole after twenty-five years.**

18 **3. No person convicted of or pleading guilty to forcible sodomy**
19 **or an attempt to commit forcible sodomy shall be granted a suspended**
20 **imposition of sentence or suspended execution of sentence.**

566.062. 1. A person commits the crime of statutory sodomy in the first
2 degree if he has deviate sexual intercourse with another person who is less than
3 fourteen years old.

4 2. Statutory sodomy in the first degree is a felony for which the
5 authorized term of imprisonment is life imprisonment or a term of years not less
6 than five years, unless:

7 (1) In the course thereof the actor inflicts serious physical injury on any
8 person, displays a deadly weapon or dangerous instrument in a threatening
9 manner, subjects the victim to sexual intercourse or deviate sexual intercourse
10 with more than one person, **in which case the authorized term of**
11 **imprisonment is life imprisonment or a term of years not less than ten**
12 **years; or**

13 **(2) The victim is less than twelve years of age, in which case the**
14 **authorized term of imprisonment is life imprisonment [or a term of years not less**
15 **than ten years] with eligibility for parole after twenty-five years.**

16 **3. No person convicted of or pleading guilty to statutory sodomy**
17 **in the first degree shall be granted a suspended imposition of sentence**
18 **or suspended execution of sentence.**

566.066. 1. A person commits the crime of unlawful luring of a
2 **child when he or she intentionally lures or attempts to lure a child**
3 **under the age of fourteen into a motor vehicle, building, or inhabitable**
4 **structure without the consent of the parent or lawful custodian of the**
5 **child for other than a lawful purpose.**

6 **2. For the purposes of this section, the luring or attempted luring**
7 **of a child under the age of seventeen into a motor vehicle, building, or**
8 **inhabitable structure without the consent of the parent or lawful**
9 **custodian or guardian of the child shall be prima facie evidence of a**
10 **purpose that is other than lawful.**

11 **3. It shall be an affirmative defense to this offense that:**

12 **(1) The person had custody of the child under a court order**
13 **granting legal custody or visitation rights that existed at the time of**
14 **the alleged violation; or**

15 **(2) The person lured or attempted to lure a child under the age**
16 **of fourteen into a motor vehicle, building, or inhabitable structure for**
17 **a lawful purpose.**

18 **4. Unlawful luring of a child is a class C felony.**

566.067. 1. A person commits the crime of child molestation in the first
2 **degree if he or she subjects another person who is less than fourteen years of age**
3 **to sexual contact.**

4 **2. Child molestation in the first degree is a class B felony unless the actor**
5 **has previously been convicted of an offense under this chapter or in the course**
6 **thereof the actor inflicts serious physical injury, displays a deadly weapon or**
7 **deadly instrument in a threatening manner, or the offense is committed as part**
8 **of a ritual or ceremony, in which case the crime is a class A felony.**

9 **3. No person convicted of or pleading guilty to child molestation**
10 **in the first degree shall be granted a suspended imposition of sentence**
11 **or suspended execution of sentence.**

566.068. 1. A person commits the crime of child molestation in the second
2 **degree if being twenty-one years of age or older he or she subjects another**

3 person who is less than seventeen years of age to sexual contact.

4 2. Child molestation in the second degree is a class [A misdemeanor] **D**
5 **felony** unless the actor has previously been convicted of an offense under this
6 chapter or in the course thereof the actor inflicts serious physical injury on any
7 person, displays a deadly weapon or dangerous instrument in a threatening
8 manner, or the offense is committed as part of a ritual or ceremony, in which case
9 the crime is a class [D] **C felony**.

566.069. 1. A person commits the crime of child molestation in
2 **the third degree if being under twenty-one years of age he or she**
3 **subjects another person who is less than seventeen years of age to**
4 **sexual contact.**

5 **2. Child molestation in the third degree is a class A misdemeanor**
6 **unless the actor has previously been convicted of an offense under this**
7 **chapter or in the course thereof the actor inflicts serious physical**
8 **injury on any person, displays a deadly weapon or dangerous**
9 **instrument in a threatening manner, or the offense is committed as part**
10 **of a ritual or ceremony, in which case, the crime is a class D felony.**

 566.083. 1. A person commits the crime of sexual misconduct involving
2 a child if the person:

3 (1) Knowingly exposes his or her genitals to a child less than fourteen
4 years of age under circumstances in which he or she knows that his or her
5 conduct is likely to cause affront or alarm to the child;

6 (2) Knowingly exposes his or her genitals to a child less than fourteen
7 years of age for the purpose of arousing or gratifying the sexual desire of any
8 person, including the child; or

9 (3) Knowingly coerces or induces a child less than fourteen years of age
10 to expose the child's genitals for the purpose of arousing or gratifying the sexual
11 desire of any person, including the child.

12 2. [As used in this section, the term "sexual act" means any of the
13 following, whether performed or engaged in either with any other person or alone:
14 sexual or anal intercourse, masturbation, bestiality, sadism, masochism,
15 fetishism, fellatio, cunnilingus, any other sexual activity or nudity, if such nudity
16 is to be depicted for the purpose of sexual stimulation or gratification of any
17 individual who may view such depiction.

18 **3.] The provisions of this section shall apply regardless of**
19 **whether the person violates the section in person or via the Internet or**

20 **other electronic means.**

21 **3. It is not an affirmative defense to prosecution for a violator**
22 **of this section that the other person was a peace officer masquerading**
23 **as a minor.**

24 **4. Violation of this section or an attempt to violate this section** is a
25 class D felony unless the actor has previously pleaded guilty to or been convicted
26 of an offense pursuant to this chapter or the actor has previously pleaded guilty
27 to or has been convicted of an offense against the laws of another state or
28 jurisdiction which would constitute an offense under this chapter, in which case
29 it is a class C felony.

566.090. 1. A person commits the crime of sexual misconduct in the first
2 degree if he **or she** has deviate sexual intercourse with another person of the
3 same sex [or he], purposely subjects another person to sexual contact without
4 that person's consent, **or knowingly exposes his or her genitals to another**
5 **person without consent for the purpose of sexual gratification.**

6 **2. Sexual misconduct in the first degree is a class A misdemeanor unless**
7 **the actor has previously been convicted of an offense under this chapter or unless**
8 **in the course thereof the actor displays a deadly weapon in a threatening manner**
9 **or the offense is committed as a part of a ritual or ceremony, in which case it is**
10 **a class D felony.**

566.151. 1. A person at least twenty-one years of age or older commits the
2 crime of enticement of a child if that person persuades, solicits, coaxes, entices,
3 or lures whether by words, actions or through communication via the Internet or
4 any electronic communication, any person who is less than fifteen years of age for
5 the purpose of engaging in sexual conduct with a child.

6 **2. It is not an affirmative defense to a prosecution for a violation of this**
7 **section that the other person was a peace officer masquerading as a minor.**

8 **3. [Attempting to entice a child is a class D felony.**

9 **4.] Enticement of a child is a class [C] B felony unless the person has**
10 **previously pled guilty to or been found guilty of violating the provisions of this**
11 **section, section 568.045, 568.050, or 568.060, RSMo, [or] this chapter, or any**
12 **offense against the laws of another state or jurisdiction that would**
13 **constitute a violation under this chapter, in which case it is a class [B] A**
14 **felony.**

566.212. 1. A person commits the crime of sexual trafficking of a child if
2 the individual knowingly:

3 (1) Recruits, entices, harbors, transports, provides, or obtains by any
4 means a person under the age of eighteen to participate in a commercial sex act
5 or benefits, financially or by receiving anything of value, from participation in
6 such activities; or

7 (2) Causes a person under the age of eighteen to engage in a commercial
8 sex act.

9 2. It shall not be an affirmative defense that the defendant believed that
10 the person was eighteen years of age or older.

11 3. The crime of sexual trafficking of a child is a class A felony if the child
12 is under the age of eighteen.

13 **4. No person convicted of or pleading guilty to sexual trafficking**
14 **of a child shall be granted a suspended imposition of sentence or**
15 **suspended execution of sentence.**

568.080. 1. A person commits the crime of use of a child in a sexual
2 performance if, knowing the character and content thereof, the person employs,
3 authorizes, or induces a child less than seventeen years of age to engage in a
4 sexual performance or, being a parent, legal guardian, or custodian of such child,
5 consents to the participation by such child in such sexual performance.

6 2. Use of a child in a sexual performance is a class C felony[,] unless in
7 the course thereof, the person inflicts serious emotional injury on the child, in
8 which case the crime is a class B felony.

9 **3. No person convicted of or pleading guilty to use of a child in**
10 **a sexual performance shall be granted a suspended imposition of**
11 **sentence or suspended execution of sentence.**

568.090. 1. A person commits the crime of promoting a sexual
2 performance if, knowing the character and content thereof, the person promotes
3 a sexual performance by a child less than seventeen years of age or produces,
4 directs, or promotes any performance which includes sexual conduct by a child
5 less than seventeen years of age.

6 2. Promoting a sexual performance is a class C felony.

7 **3. No person convicted of or pleading guilty to promoting a**
8 **sexual performance by a child shall be granted a suspended imposition**
9 **of sentence or suspended execution of sentence.**

573.010. As used in this chapter the following terms shall mean:

2 (1) "Child", any person under the age of fourteen;

3 (2) "Child pornography", any:

4 **(a)** Obscene material or performance depicting sexual conduct, sexual
5 contact, or a sexual performance, as these terms are defined in section 556.061,
6 RSMo, and which has as one of its participants or portrays as an observer of such
7 conduct, contact, or performance a [child] **minor** under the age of eighteen; **or**

8 **(b) Material or performance that shows a minor in a state of**
9 **nudity, unless:**

10 **a. The material or performance is, or is to be, sold, disseminated,**
11 **displayed, possessed, controlled, brought or caused to be brought in**
12 **this state, or presented for a bona fide artistic, medical, scientific,**
13 **educational, religious, governmental, judicial, or other proper purpose,**
14 **by or to a physician, psychologist, sociologist, scientist, teacher, person**
15 **pursuing bona fide studies or research, librarian, clergyman,**
16 **prosecutor, judge, or other person having a proper interest in the**
17 **material or performance; and**

18 **b. The minor's parents, guardian, or custodian consents in**
19 **writing to the photographing of the minor, to the use of the minor in**
20 **the material or performance, or to the transfer of the material and to**
21 **the specific manner in which the material or performance is to be used;**
22 **and**

23 **c. Where such nudity does not constitute a lewd exhibition and**
24 **involve a graphic focus on the genitals of the child;**

25 (3) "Displays publicly", exposing, placing, posting, exhibiting, or in any
26 fashion displaying in any location, whether public or private, an item in such a
27 manner that it may be readily seen and its content or character distinguished by
28 normal unaided vision viewing it from a street, highway or public sidewalk, or
29 from the property of others or from any portion of the person's store, or the
30 exhibitor's store or property when items and material other than this material are
31 offered for sale or rent to the public;

32 (4) "Explicit sexual material", any pictorial or three dimensional material
33 depicting human masturbation, deviate sexual intercourse, sexual intercourse,
34 direct physical stimulation or unclothed genitals, sadomasochistic abuse, or
35 emphasizing the depiction of postpubertal human genitals; provided, however,
36 that works of art or of anthropological significance shall not be deemed to be
37 within the foregoing definition;

38 (5) "Furnish", to issue, sell, give, provide, lend, mail, deliver, transfer,
39 circulate, disseminate, present, exhibit or otherwise provide;

40 (6) "Material", anything printed or written, or any picture, drawing,
41 photograph, motion picture film, videotape or videotape production, or pictorial
42 representation, or any recording or transcription, or any mechanical, chemical,
43 or electrical reproduction, or stored computer data, or anything which is or may
44 be used as a means of communication. "Material" includes undeveloped
45 photographs, molds, printing plates, stored computer data and other latent
46 representational objects;

47 (7) "Minor", any person under the age of eighteen;

48 (8) "Nudity", the showing of postpubertal human genitals or pubic area,
49 with less than a fully opaque covering;

50 (9) "Obscene", any material or performance is obscene if, taken as a whole:

51 (a) Applying contemporary community standards, its predominant appeal
52 is to prurient interest in sex; and

53 (b) The average person, applying contemporary community standards,
54 would find the material depicts or describes sexual conduct in a patently offensive
55 way; and

56 (c) A reasonable person would find the material lacks serious literary,
57 artistic, political or scientific value;

58 (10) "Performance", any play, motion picture film, videotape, dance or
59 exhibition performed before an audience of one or more;

60 (11) "Pornographic for minors", any material or performance is
61 pornographic for minors if the following apply:

62 (a) The average person, applying contemporary community standards,
63 would find that the material or performance, taken as a whole, has a tendency to
64 cater or appeal to a prurient interest of minors; and

65 (b) The material or performance depicts or describes nudity, sexual
66 conduct, sexual excitement, or sadomasochistic abuse in a way which is patently
67 offensive to the average person applying contemporary adult community
68 standards with respect to what is suitable for minors; and

69 (c) The material or performance, taken as a whole, lacks serious literary,
70 artistic, political, or scientific value for minors;

71 (12) "Promote", to manufacture, issue, sell, provide, mail, deliver, transfer,
72 transmute, publish, distribute, circulate, disseminate, present, exhibit, or
73 advertise, or to offer or agree to do the same, by any means including a computer;

74 (13) "Sadomasochistic abuse", flagellation or torture by or upon a person
75 as an act of sexual stimulation or gratification;

76 (14) "Sexual conduct", actual or simulated, normal or perverted acts of
77 human masturbation; deviate sexual intercourse; sexual intercourse; or physical
78 contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the
79 breast of a female in an act of apparent sexual stimulation or gratification or any
80 sadomasochistic abuse or acts including animals or any latent objects in an act
81 of apparent sexual stimulation or gratification;

82 (15) "Sexual excitement", the condition of human male or female genitals
83 when in a state of sexual stimulation or arousal;

84 (16) "Wholesale promote", to manufacture, issue, sell, provide, mail,
85 deliver, transfer, transmit, publish, distribute, circulate, disseminate, or to offer
86 or agree to do the same for purposes of resale or redistribution.

589.400. 1. Sections 589.400 to 589.425 shall apply to:

2 (1) Any person who, since July 1, 1979, has been or is hereafter convicted
3 of, been found guilty of, or pled guilty or nolo contendere to committing, or
4 attempting to commit, a felony offense of chapter 566, RSMo, or any offense of
5 chapter 566, RSMo, where the victim is a minor; or

6 (2) Any person who, since July 1, 1979, has been or is hereafter convicted
7 of, been found guilty of, or pled guilty or nolo contendere to committing, or
8 attempting to commit one or more of the following offenses: kidnapping, pursuant
9 to section 565.110, RSMo; felonious restraint; promoting prostitution in the first
10 degree; promoting prostitution in the second degree; promoting prostitution in the
11 third degree; sexual exploitation of a minor; promoting child pornography in the
12 first degree; promoting child pornography in the second degree; possession of
13 child pornography; furnishing pornographic material to minors; public display of
14 explicit sexual material; coercing acceptance of obscene material; promoting
15 obscenity in the first degree; promoting pornography for minors or obscenity in
16 the second degree; incest; abuse of a child, pursuant to section 568.060, RSMo;
17 use of a child in a sexual performance; or promoting sexual performance by a
18 child; and committed or attempted to commit the offense against a victim who is
19 a minor, defined for the purposes of sections 589.400 to 589.425 as a person under
20 eighteen years of age; or

21 (3) Any person who, since July 1, 1979, has been committed to the
22 department of mental health as a criminal sexual psychopath; or

23 (4) Any person who, since July 1, 1979, has been found not guilty as a
24 result of mental disease or defect of any offense listed in subdivision (1) or (2) of
25 this subsection; or

26 (5) Any person who is a resident of this state who has, since July 1, 1979,
27 or is hereafter convicted of, been found guilty of, or pled guilty to or nolo
28 contendere in any other state, foreign country, or under federal or military
29 jurisdiction to committing, or attempting to commit, an offense which, if
30 committed in this state, would be a violation of chapter 566, RSMo, or a felony
31 violation of any offense listed in subdivision (2) of this subsection or has been or
32 is required to register in another state or has been or is required to register
33 under federal or military law; or

34 (6) Any person who has been or is required to register in another state or
35 has been or is required to register under federal or military law and who works
36 or attends school or training on a full-time or on a part-time basis in
37 Missouri. "Part-time" in this subdivision means for more than fourteen days in
38 any twelve-month period.

39 2. Any person to whom sections 589.400 to 589.425 apply shall, within ten
40 days of conviction, release from incarceration, or placement upon probation,
41 register with the chief law enforcement official of the county in which such person
42 resides, **regardless of whether such residence is temporary or**
43 **permanent**, unless such person has already registered in that county for the
44 same offense. Any person to whom sections 589.400 to 589.425 apply if not
45 currently registered in their county of residence shall register with the chief law
46 enforcement official of such county within ten days of August 28, 2003. The chief
47 law enforcement official shall forward a copy of the registration form required by
48 section 589.407 to a city, town, village, or campus law enforcement agency located
49 within the county of the chief law enforcement official, if so requested. Such
50 request may ask the chief law enforcement official to forward copies of all
51 registration forms filed with such official. The chief law enforcement official may
52 forward a copy of such registration form to any city, town, village, or campus law
53 enforcement agency, if so requested.

54 3. The registration requirements of sections 589.400 through 589.425 are
55 lifetime registration requirements unless all offenses requiring registration are
56 reversed, vacated or set aside or unless the registrant is pardoned of the offenses
57 requiring registration.

58 4. For processing an initial sex offender registration the chief law
59 enforcement officer of the county may charge the offender registering a fee of up
60 to ten dollars.

61 5. For processing any change in registration required pursuant to section

62 589.414 the chief law enforcement official of the county may charge the person
63 changing their registration a fee of five dollars for each change made after the
64 initial registration.

589.407. Any registration pursuant to sections 589.400 to 589.425 shall
2 consist of completion of an offender registration form developed by the Missouri
3 state highway patrol. Such form shall include, but is not limited to the following:

4 (1) A statement in writing signed by the person, giving the name, address,
5 Social Security number and phone number of the person, the place of employment
6 of such person, enrollment within any institutions of higher education, the crime
7 which requires registration, whether the person was sentenced as a persistent or
8 predatory offender pursuant to section 558.018, RSMo, the date, place, and a brief
9 description of such crime, the date and place of the conviction or plea regarding
10 such crime, the age and gender of the victim at the time of the offense and
11 whether the person successfully completed the Missouri sexual offender program
12 pursuant to section 589.040, if applicable; [and]

13 (2) The fingerprints and a photograph of the person; **and**

14 (3) **A physical description of the offender's vehicle, including**
15 **make, model, color, and license plate number.**

589.408. 1. **Within ten days of an offender who is required to**
2 **register under sections 589.400 to 589.425 completing an offender**
3 **registration form, the chief law enforcement officer of the county may**
4 **publish notice in the newspaper of greatest circulation in the county**
5 **that such offender intends to reside in the county. Upon choosing to do**
6 **so, the chief law enforcement officer shall publish a duplicate notice in**
7 **the same newspaper, with any necessary corrections, during the week**
8 **immediately following the initial publication. The notice published in**
9 **the newspaper shall include only the information that the offender is**
10 **required to provide under section 589.407.**

11 2. **Within ten days of an offender who is required to register**
12 **under section 589.400 completing an offender registration form, the**
13 **chief law enforcement officer of the county may provide written notice**
14 **to individuals living within one mile of an offender's primary residence**
15 **of such offender's intent to reside at such location, if the offense for**
16 **which the person must register was committed against a victim less**
17 **than seventeen years of age, or the offender is considered a persistent**
18 **sexual predator or predatory sexual offender under section 558.018,**

19 **RSMo. The written notice shall include only the information that the**
20 **offender is required to provide under section 589.407. In addition, any**
21 **probation or parole officer supervising such offender may provide**
22 **written or verbal notification to such individuals of the offender's**
23 **intent to reside at the location.**

24 **3. Within tens days of an offender who is required to register**
25 **under sections 589.400 to 589.425 completing an offender registration**
26 **form, the chief law enforcement officer of the county may provide**
27 **written notice to any superintendent of a public school district within**
28 **the county or any administrator of a private primary or secondary**
29 **school located within the county of the sexual offender's intention to**
30 **reside within the county, if the offender's victim was a child less than**
31 **seventeen years of age at the time of the offense. Upon receiving such**
32 **notification, the superintendent or administrator shall release the**
33 **information contained in the notice to appropriate school personnel,**
34 **including peace officers and security personnel, principals, nurses, and**
35 **counselors. The written notice shall include only the information that**
36 **the offender is required to provide under section 589.407.**

589.414. 1. If any person required by sections 589.400 to 589.425 to
2 register changes residence or address, **regardless of whether such change is**
3 **temporary or permanent**, within the same county as such person's previous
4 address, the person shall inform the chief law enforcement official in writing
5 within ten days of such new address and phone number, if the phone number is
6 also changed.

7 2. If any person required by sections 589.400 to 589.425 to register
8 changes such person's residence or address, **regardless of whether such**
9 **change is temporary or permanent**, to a different county, the person shall
10 appear in person and shall inform both the chief law enforcement official with
11 whom the person last registered and the chief law enforcement official of the
12 county having jurisdiction over the new residence or address in writing within ten
13 days of such new address and phone number, if the phone number is also
14 changed. If any person required by sections 589.400 to 589.425 to register
15 changes their state of residence, the person shall appear in person and shall
16 inform both the chief law enforcement official with whom the person was last
17 registered and the chief law enforcement official of the area in the new state
18 having jurisdiction over the new residence or address within ten days of such new

19 address. Whenever a registrant changes residence, the chief law enforcement
20 official of the county where the person was previously registered shall promptly
21 inform the Missouri state highway patrol of the change. When the registrant is
22 changing the residence to a new state, the Missouri state highway patrol shall
23 promptly inform the responsible official in the new state of residence.

24 3. Any person required by sections 589.400 to 589.425 to register who
25 changes his or her enrollment or employment status with any institution of
26 higher education within this state, by either beginning or ending such enrollment
27 or employment, shall inform the chief law enforcement officer of such change
28 within seven days after such change is made.

29 4. Any person required by sections 589.400 to 589.425 to register who
30 officially changes such person's name shall inform the chief law enforcement
31 officer of such name change within seven days after such change is made.

32 5. **Any person required by sections 589.400 to 589.425 to register**
33 **who changes the ownership of his or her vehicle shall inform the chief**
34 **law enforcement officer of such vehicle change within seven days after**
35 **such change is made.**

36 6. In addition to the requirements of subsections 1 and 2 of this section,
37 the following offenders shall report in person to the county law enforcement
38 agency every ninety days to verify the information contained in their statement
39 made pursuant to section 589.407:

40 (1) Any offender registered as a predatory or persistent sexual offender
41 under the definitions found in section 558.018, RSMo;

42 (2) Any offender who is registered for a crime where the victim was less
43 than eighteen years of age at the time of the offense; and

44 (3) Any offender who has pled guilty or been found guilty pursuant to
45 section 589.425 of failing to register or submitting false information when
46 registering.

47 [6.] 7. In addition to the requirements of subsections 1 and 2 of this
48 section, all registrants shall report annually in person in the month of their birth
49 to the county law enforcement agency to verify the information contained in their
50 statement made pursuant to section 589.407.

51 [7.] 8. In addition to the requirements of subsections 1 and 2 of this
52 section, all Missouri registrants who work or attend school or training on a
53 full-time or part-time basis in any other state shall be required to report in
54 person to the chief law enforcement officer in the area of the state where they

55 work or attend school or training and register in that state. "Part-time" in this
56 subsection means for more than fourteen days in any twelve-month period.

**589.418. Any person who knowingly believes that a sexual
2 offender is not complying with the registration requirements of
3 sections 589.400 to 589.425 and who, with the intent to assist the sexual
4 offender in eluding a law enforcement agency that is seeking to find the
5 sexual offender to question the offender about, or to arrest the offender
6 for, his or her noncompliance with such registration requirements is
7 guilty of a class C felony if such person:**

8 **(1) Withholds information from, or does not notify, the law
9 enforcement agency about the sexual offender's noncompliance with the
10 registration requirements of sections 589.400 to 589.425, and if known,
11 the location of the sexual offender;**

12 **(2) Harbors, or attempts to harbor the sexual offender;**

13 **(3) Conceals or attempts to conceal the whereabouts of a sexual
14 offender; or**

15 **(4) Provides information to the law enforcement agency
16 regarding the sexual predator that the person knows to be false
17 information.**

589.425. 1. Any person who is required to register pursuant to sections
2 589.400 to 589.425 and does not meet all requirements of sections 589.400 to
3 589.425 is guilty of a class [A misdemeanor] **C felony**, unless the person has
4 been convicted pursuant to chapter 566 of an unclassified felony, class A felony,
5 class B felony, or any felony involving a child under the age of fourteen, in which
6 case the person is guilty of a class [D] **B felony**.

7 2. Any person who commits a second or subsequent violation of subsection
8 1 of this section is guilty of a class [D] **B felony**, unless the person has been
9 convicted pursuant to chapter 566 of an unclassified felony, class A felony, class
10 B felony, or any felony involving a child under the age of fourteen, in which case
11 the person is guilty of a class [C] **A felony**.

✓